

Notification Exemptions

A Self Assessment Guide

Further information about compliance with the Data Protection Act 1998 can be obtained by/from

Notification dept. E-mail address: data@notification.demon.co.uk

Internet: www.dataprotection.gov.uk

Information line: 01625 545745

Notification helpline: 01625 545740

Notification Fax: 01625 545748

Post: Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF



Notification exemptions

- Some data controllers do not need to notify.
- By working through questions 1 – 9 you will be able to determine if notification is required.
- The sequence of questions is such that if there is no possibility of an exemption for you this will be made clear very quickly.
- Exemptions are possible for:
 - (i) Data controllers who only process personal data for:
 - Staff Administration (including payroll)
 - Advertising, Marketing and Public Relations (for their own business)
 - Accounts and Records
 - (ii) Some Not For Profit Organisations
 - (iii) Processing personal data for personal, family or household affairs (including recreational purposes)
 - (iv) Maintenance of a Public Register

If you are exempt

Individuals who are processing personal data for personal, family or household affairs are exempt from notification and the other provisions of the Data Protection Act 1998.

Other data controllers who are exempt from notification must comply with the other provisions of the Act.

Further information about compliance can be obtained from the sources on the back page of this booklet.

Data controllers who are exempt from notification may choose to notify voluntarily.

1. Are you processing *Personal Data*?



Q2



No
requirement
to notify

2. Is any of your processing *on computer*?



Q3



No
requirement
to notify

3. Are you a *Data Controller*?



Q4



No
requirement
to notify

Personal data

Personal data means data which relate to a **living** individual who can be identified from those data or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

Processing

Processing means obtaining, recording or holding the data or carrying out any operation or set of operations on the data. It includes organising, adapting and amending the data, retrieval, consultation and use of the data, disclosing and erasure or destruction of the data. It is difficult to envisage any activity involving data which does not amount to processing.

Processing on computer

If none of your processing is carried out on computer there is no requirement to notify. The term 'computer' includes any type of computer however described, for example mainframe, desk top, lap top, palm top etc. It also includes other types of equipment which, although not normally described as computers, nevertheless have some ability to process automatically e.g. automatic retrieval systems for microfilm and microfiche, audio and visual systems, electronic flexi-time systems and telephone logging equipment and CCTV systems.

Data controller

Data controller means a person who (either alone or jointly or in common with other persons) determines the purpose for which and the manner in which any personal data are, or are to be, processed.

If you are a data processor (any person - other than an employee of the data controller - who processes data on behalf of the data controller) there is no requirement to notify.

4. Are you processing personal data for any of the following purposes ?

- Accountancy/Auditing
- Administration of Justice and Legal Services
- Canvassing Political Support amongst the electorate
- Constituency Casework
- Credit Referencing
- Crime Prevention and Prosecution of Offenders (including use of CCTV for these purposes)
- Debt Administration and Factoring
- Education
- Health Administration and Provision of Health Services
- Mortgage/Insurance Broking/Insurance Administration
- Pastoral Care
- Private Investigation
- Provision of Financial Services and Advice
- Research
- Trading and Sharing in Personal Information
- Pensions Administration
- Accounts and Records*
(See note relating to use of a credit reference agency)



You are
required
to notify



Q5

Non exempt purposes

You will NOT be exempt if you are processing personal data for any of the purposes listed in the column on the left.

This is NOT an exhaustive list but illustrates the most common purposes where there is a requirement to notify.

Data controllers who are unlikely to be exempt include accountants, barristers, consultants, dentists, doctors, employment agencies, financial advisers, schools and solicitors

For information on how to notify please turn to page 16 of this booklet.

- * Although Accounts and Records is one of the exempt purposes, if you process personal data which has been processed by or obtained from a CREDIT REFERENCE AGENCY, the exemption is not available and you are required to notify.

5. Are you *only* processing personal data for personal, family, or household affairs (including recreational purposes)?



No
requirement
to notify



Q6

6. Are you *only* processing personal data to maintain a public register?



No
requirement
to notify



Q7

7. Are you a *not for profit* organisation?



Q8



Q9

Personal, family and domestic

Individuals are exempt from notification if the only data processed are for personal, domestic and household affairs (including recreational purposes).

Examples might be a personal address list, Christmas card list or data held in connection with a hobby.

It does not apply to individuals who hold personal data for business or professional purposes.

Public registers

There is a specific exemption from notification for any processing whose sole purpose is the maintenance of a public register.

The exemption only applies to the information which the data controller is required to publish.

Not for profit organisation

There is a specific exemption from notification for a data controller which is a body or association not established or conducted for profit provided their processing does not fall outside the descriptions in Questions 8 and 9.

8. As a not for profit organisation is all of your processing covered by the following descriptions?

Your Processing is only

For the purposes of establishing or maintaining membership or support for a body or association not established or conducted for profit, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it.

Your data subjects are restricted to

- any person the processing of whose personal data is necessary for this exempt purpose.

Your data classes are restricted to

- data which are necessary for this exempt purpose.

Your disclosures other than those made with the consent of the data subjects are restricted to

- those third parties which are necessary for this exempt purpose.

Retention of the data

- The personal data are not kept after the relationship between you and the data subject ends, unless and for so long as it is necessary to do so for the exempt purpose.

YES

NO



If the answer is no, but the only additional processing you do is for one or more of the purposes described in Question 9, there is no requirement to notify.

No

Q9

Requirement
To Notify

The exempt purpose for not for profit making organisations

This exempt purpose is intended for small clubs, voluntary organisations, church administration and some charities.

Further written guidance on this exemption is available by telephoning the notification helpline.

Examples are:

past, existing or prospective members or those who have regular contact with the organisation.

Examples are:

names, addresses, identifiers or eligibility for membership.

9. You do not have to notify if the *only** processing you carry out is for one or more of these purposes:

- Staff administration
- Advertising, marketing and public relations
- Accounts and records

Please read the following information about each of the exempt purposes to determine whether or not you are exempt.

Staff administration

This is processing for the purposes of appointments or removals, pay, discipline, superannuation, work management or other personnel matters in relation to your staff.

Your data subjects are restricted to

- any person the processing of whose personal data is necessary for staff administration.

Your data classes are restricted to

- data which are necessary for staff administration.

Your disclosures other than those made with the consent of the data subject are restricted to

- those third parties which are necessary for staff administration.

Retention of the data

- The personal data are not kept after the relationship between you and the data subjects ends, unless and for so long as it is necessary to do so for staff administration.

Exemptions for core business purposes

These purposes are sometimes referred to as the core business purposes.

Typically they would relate to a small business which processes personal data only for these purposes to support its primary activity.

You must read the description of each purpose to ensure that you only process personal data covered by one or more of each description.

* A *not for profit* organisation may also carry out processing covered by the description in Question 8.

Staff administration

The term **staff** includes all employees, office holders, temporary and casual workers, agents and volunteers.

This purpose includes all personnel and work management matters.

Examples are:

past, existing or prospective members of staff

Examples are:

qualifications, work experience, pay and performance.

For example:

Inland Revenue

9. (continued)

Advertising, marketing and public relations

This is processing for the purposes of advertising or marketing **your** business, activity, goods or services and promoting public relations only in connection with that business or activity, or those goods or services.

Your data subjects are restricted to

- any person the processing of whose personal data is necessary for your own advertising, marketing and public relations.

Your data classes are restricted to

- data which are necessary for your advertising, marketing and public relations.

Your disclosures other than those made with the consent of the data subject are restricted to

- those third parties which are necessary for your advertising, marketing and public relations.

Retention of the data

- The personal data are not kept after the relationship between you and the customer or supplier ends, unless and for so long as it is necessary to do so for your advertising, marketing and public relations.

Exemptions for advertising, marketing and public relations

This exemption only applies to data controllers who are advertising and marketing their own goods and services.

If you obtain personal data from a third party for the purpose of marketing your own goods and services, you will not lose the exemption.

If you are marketing goods and services for others, you will need to notify.

Examples are:

past, existing or prospective customers or suppliers.

Examples are:

names, addresses and other identifiers.

9. (continued)

Accounts and records

This is processing for the purposes of keeping accounts relating to any business or other activity carried on by you, or deciding whether to accept any person as a customer or supplier, or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments and deliveries are made or services provided by you or to you in respect of those transactions, or for the purpose of making financial or management forecasts to assist you in the conduct of any such business or activity.

Your data subjects are restricted to

- any person the processing of whose personal data is necessary for your accounts and records.

Your data classes are restricted to

- data which are necessary for your accounts and records. This excludes personal data processed by or obtained from a credit reference agency.

Your disclosures other than those made with the consent of the data subject are restricted to

- those third parties which are necessary for accounts and records.

Retention of the data

- The personal data are not kept after the relationship between you and the customer or supplier ends, unless and for so long as it is necessary to do so for your accounts and records.

Exemption for accounts and records

This exemption covers the administration of customer and supplier records.

It includes processing relating to making a decision about whether or not to do business with a particular customer or supplier but specifically excludes personal data processed by or obtained from a credit reference agency.

It excludes data controllers who are providing accounting services for their customers.

Examples are:

past, existing or prospective customers or suppliers.

Examples are:

name, address, credit card details.

For example:

external auditors.

How To Notify

There are three easy ways to notify.

By **internet** (www.dpr.gov.uk) - you can complete the notification form on-line, print it and send the form to us with the notification fee or your direct debit instruction.

By **completing** the Request for Notification Form sheet on page 19 of this booklet. This Form should be faxed or posted (f.a.o. Notification Department – Notification Requests) or alternatively the information can be e-mailed. The notification forms will then be sent to you for completion.

By **telephone** – you can telephone the Notification help line. You will be asked to provide your name, address, contact details and to specify the nature of your business.

If you request an application form via the telephone helpline or via the Request For a Notification Form option, a partially completed notification form will be sent to you based on the nature of your business. When you receive your forms you will need to check the details on the Part 1 Form, complete the relevant sections on the Part 2 Form and then return both Parts 1 and 2 to us with the notification fee or your completed direct debit instruction.


Compliance with the Data Protection Act 1998

Data controllers must comply with the provisions of the 1998 Act even if they are exempt from notification.

There are eight Data Protection Principles

In summary they require that data shall be:

1. fairly and lawfully processed
2. processed for limited purposes
3. adequate, relevant and not excessive
4. accurate
5. not kept longer than necessary
6. processed in accordance with the data subjects' rights
7. secure
8. not transferred to countries outside the EEA without adequate protection.

| | |
|-----------------------------------------------------------------------------------|------------------------------------------|
|  | <h2>Request for a Notification Form</h2> |
|-----------------------------------------------------------------------------------|------------------------------------------|

If you have determined that notification is required you can complete the form below – guidance on completion of this form is given overleaf. Send it to us, fax it (01625 545748) or email the information and a draft notification form **will be sent to you for further action.**

Alternatively – you can complete the notification form on-line by visiting our website (www.dpr.gov.uk). This form should then be printed and sent to us with the appropriate fee.

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Data Controller Name: <i>(Please see overleaf for guidance)</i> | |
| Data Controller Address: <i>(if a Ltd or plc company this should be the registered office address)</i> | |
| Company Reg. Number <i>(optional):</i> | |
| Contact Name & Job Title: | |
| Contact Address: | |
| Contact Telephone Number: | |
| Contact Fax Number: | |
| Contact Email Address: | |
| Nature of Business: e.g. Doctor, Accountant. <i>(Please note it is essential to indicate the nature of business so that the correct information can be sent to you.)</i> | |

(Please do not send any payment with this form)

| | |
|-----------|-----------|
| Signature | |
| Name | Job Title |
| Date | Tel No. |

Advice about any aspect of notification can be obtained by writing to the address below or by calling the notification help line on 01625 545740.

Please return to: Notification Department
Information Commissioner's Office, P.O.Box 66, WILMSLOW, Cheshire, SK9 5AX

e-mail address: requests@notification.demon.co.uk

Data Controller Name

The name you provide must be the correct legal title of the individual or organisation. Examples are given below.

- **Sole Traders**
Provide the full name of the individual e.g. Anna Katherine Smith
- **Partnerships**
Provide the trading name of the firm e.g. Buttersfield & Co (you do not have to provide the names of the partners)
- **Limited or public limited companies**
Provide the full name of the company e.g. ABC Ltd - not your trading name.
- **Groups of companies**
Groups of companies cannot submit a single notification. Individual companies who are data controllers must notify separately.
- **Schools**
Provide the name of the school – e.g. Hazeldown School
- **Others, e.g. voluntary bodies**
Provide the name by which you are known to the public.

Data controller address

If you are a limited company you must provide your registered office address. In all other cases you must provide the address of your principal place of business. If there is no place of business (e.g. for a small local voluntary body) you should provide the address of the official who has completed the form.

Company Registration Number

If you are a limited or public limited company we encourage you to provide your company registration number as a unique identifier for the company. However, you are not obliged to provide it.

Contact details

You may provide a name, address (within the UK), telephone number, fax number and e-mail address. We will use these details for all correspondence in connection with your notification. These details will not appear on the public register.